UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CHAMPLIN'S REALTY ASSOCIATES	:	
	:	
v.	:	C.A. No. 06-135 S
	:	
DONALD L. CARCIERI, Governor of the State of Rhode Island, KENNETH K. MCKAY, IV, Chief of Staff to the Governor of the State of Rhode Island and John Does 1 through 5	:	

ANSWER OF DEFENDANTS
DONALD L. CARCIERI AND KENNETH K. MCKAY, IV

1. Defendants lack information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of plaintiff's first amended complaint, and, therefore deny those allegations.

2. Admit.

3. Defendants admit that Donald L. Carcieri is the Governor of Rhode Island. The remaining allegations of paragraph 3 of plaintiff's first amended complaint call for a legal conclusion to which no response is required.

4. Defendants admit that Kenneth K. McKay, IV is the Governor's Chief of Staff. The remaining allegations of paragraph 4 of the plaintiff's first amended complaint call for a legal conclusion to which no response is required.

5. Denied.

6. Admit.

7. Admit.

8. The allegations contained in paragraph 8 of the plaintiff's first amended complaint call for a legal conclusion to which no response is required.

9. Defendants lack information sufficient to form a belief as to the truth of the allegations set forth in paragraph 9 of plaintiff's first amended complaint and, therefore, deny those allegations.

10. The allegations contained in paragraph 10 of the plaintiff's first amended complaint call for a legal conclusion to which no response is required.

11. The allegations contained in paragraph 11 of the plaintiff's first amended complaint call for a legal conclusion to which no response is required.

12. The allegations contained in paragraph 12 of the plaintiff's first amended complaint call for a legal conclusion to which no response is required.

13. The allegations contained in paragraph 13 of the plaintiff's first amended complaint call for a legal conclusion to which no response is required.

14. Defendants lack information sufficient to form a belief as to the truth of the allegations set forth in paragraph 14 of plaintiff's first amended complaint and, therefore, deny those allegations.

15. Defendants lack information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 of plaintiff's first amended complaint and, therefore, deny those allegations.

16. Defendants admit that a CRMC subcommittee voted to approve the plaintiff's application. Defendants lack information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 16 of the plaintiff's first amended complaint and, therefore, deny those allegations.

17. Defendants lack information sufficient to form a belief as to the truth of the allegations set forth in paragraph 17 of plaintiff's first amended complaint and, therefore, deny those allegations.

18. Admit.

19. Admit.

20. Deny.

21. Deny.

22. Defendant McKay admits that he spoke with Chairman Tikoian on at least one occasion prior to CRMC's vote on plaintiff's application but denies the remaining allegations of paragraph 22.

23. Defendants admit that the Governor has made public statements opposing the expansion of the marina as proposed. Defendant McKay has, likewise, assisted in the dissemination of the Governor's public opposition to the proposed marina expansion. The defendants deny the remaining allegations of paragraph 23 of the plaintiff's first amended complaint.

24. Defendant McKay admits that he has assisted in the dissemination of the Governor's public opposition to the marina expansion as proposed. Defendant McKay denies the remaining allegations of paragraph 24 of the plaintiff's first amended complaint.

25. Defendants admit that Michael Sullivan is the Director of the Department of Environmental Management and that the Director is an *ex officio* member of CRMC. Defendant McKay admits discussing, in passing, the proposed marina expansion with Director Sullivan but denies any discussion of the Director's vote on the issue. Defendants deny the remaining allegations of paragraph 25 of the plaintiff's first amended complaint.

26. Admit.

27. Defendants admit that plaintiff's application was denied by the CRMC. Defendants deny the remaining allegations of paragraph 27 of the plaintiff's first amended complaint.

28. Defendants admit that the vote was tied but deny the remaining allegations of paragraph 28 of the plaintiff's first amended complaint.

29. Deny.

30. Deny.

COUNT I

Declaratory and Injunctive Relief

1. Defendants reincorporate their answers to paragraphs 1-30 of the plaintiff's first amended complaint.

2. Paragraph 2 of Count I of the plaintiff's first amended complaint is a legal conclusion to which no response is required.

3. Deny.

4. Deny.

5. Deny.

6. The allegations contained in paragraph 6 of Count I of the plaintiff's first amended complaint are legal conclusions to which no response is required.

Defendants deny that the plaintiff is entitled to the relief requested in the WHEREFORE paragraph of Count I of its first amended complaint.

COUNT II

Violation of 42 U.S.C. § 1983

1. Defendants reincorporate their answers to all preceding paragraphs of the plaintiff's first amended complaint.

2. The allegations contained in paragraph 2 of Count II of the plaintiff's first amended complaint calls for a legal conclusion to which no response is required.

3. Deny.

4. Deny.

5. Deny.

Defendants deny that the plaintiff is entitled to the relief requested in the WHEREFORE paragraph of Count II of its first amended complaint.

COUNT III

Malicious Interference with Prospective Business Expectations

1. Defendants reincorporate their answers to all preceding paragraphs of the plaintiff's first amended complaint.

2. Defendants admit that plaintiff received a favorable recommendation from the subcommittee. Defendants lack information sufficient to form a belief as to the truth of the remaining allegations of paragraph 2 of Count II of the plaintiff's first amended complaint and, therefore, deny those allegations.

3. The allegations contained in paragraph 3 of Count III of plaintiff's first amended complaint call for a legal conclusion to which no response is required.

4. The allegations contained in paragraph 4 of Count III of plaintiff's first amended complaint call for a legal conclusion to which no response is required.

5. Deny.

6. Deny.

7. Deny.

8. Deny.

Defendants deny that the plaintiff is entitled to the relief requested in the WHEREFORE paragraph of Count III of its first amended complaint.

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendants are entitled to conditional immunity under R.I. Gen. Laws §9-33-2.

THIRD AFFIRMATIVE DEFENSE

Defendants plead the equitable doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

Defendants are entitled to qualified immunity.

Respectfully submitted,

DEFENDANTS
By their Attorney,

Claire Richards (#4057)
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CERTIFICATION

I hereby certify that a true and accurate copy of the foregoing was sent via 1st class mail on this 31st day of March, 2006, to Robert D. Goldberg, Esq., Goldberg Law Offices, P.O. Box 557, Pawtucket, RI 02882-0557.